

DELEGATE SCHRAG: I'd like to amend the Love motion.

DELEGATE JOHNSON: We have got to get a ruling.

DELEGATE SCHRAG: Oh, you're going to get a ruling first, okay.

CHAIRMAN BALDWIN: The chair rules in favor of the last statement that Delegate Garner made. We only have on the floor section 4(b) and that first amendment. So, for the sake of time--and I'm sure you will concur that we should be allowed to deal with that amendment only.

DELEGATE SCHRAG: I move to amend the Love amendment so that it would read: No law passed by the legislature shall take effect except as otherwise provided herein. I'm sorry, excuse me. Except as provided herein.

That way the effect of this would be to postpone the substantive debate on this till we get to the section of the legislative article that would deal with this in detail.

DELEGATE CORN: What is the wording?

DELEGATE SCHRAG: No law passed by the legislature shall take effect except as provided herein.

CHAIRMAN BALDWIN: The secretary will read the--

DELEGATE SCHRAG: Herein meaning the constitution. Except as provided in the constitution, in this constitution.

CHAIRMAN BALDWIN: The secretary will read the

secondary amendment by Delegetw Schrag.

SECRETARY COOPER: The amendment to section 4(b) would read as follows: No law passed by the legislature shall take effect except as provided herein.

DELEGATE CORN: Second.

DELEGATE SCHRAG: In this constitution, because "herein" is confusing. It's not clear whether it is in the section, the article, or the constitution.

DELEGATE CORN: Except as provided in this constitution.

DELEGATE SCHRAG: In this constitution would clear it up.

DELEGATE CORN: Second.

CHAIRMAN BALDWIN: We have to vote on the Schrag amendment first.

SECRETARY COOPER: Do you want to hear it again because of the change?

CHAIRMAN BALDWIN: Yes. Be sure that everyone understands.

SECRETARY COOPER: No law passed by the legislature shall take effect except as provided in this constitution.

CHAIRMAN BALDWIN: That's the Schrag amendment. And that is the secondary amendment, and we vote on that one

first. Discussion. Delegate Love.

DELEGATE LOVE: I'd like to oppose this motion. There are two basic questions facing us. One is the 90-day time period, which I support, which will allow a referendum to take place. The other is the whole debate about how to declare an emergency, which I say is a proper discussion when we come to legislature. So, my proposal would allow us to settle in 90 days so we could have the referenda and discuss all the ins and outs of emergency legislation, which are very complex when you come to legislative. So, I would ask the delegates to oppose this motion and support mine.

CHAIRMAN BALDWIN: Someone from the committee, will you speak to Delegate Schrag's motion, amendment.

DELEGATE BRUNING: Yes.

CHAIRMAN BALDWIN: That's what's on the floor.

DELEGATE BRUNING: I just wanted to speak to the very open-endedness of it. As an advocate of referendum, the 90-day period is indeed crucial to whether or not a referendum exists or doesn't exist. I suggest anything short of 90 days we should scrap for referendum in the District, in the new state. So, to the extent that that leaves the 90 days up for grabs, I think this committee is opposed to it.

CHAIRMAN BALDWIN: Other discussion on the

secondary amendment? The Schrag amendment. Once a person speaks from the committee, that will be sufficient unless some of the delegates have some questions. Delegate Barnes.

DELEGATE BARNES: I move the previous question.

DELEGATE THOMAS: Second.

CHAIRMAN BALDWIN: The previous question has been called for. Those in favor, signify by saying, "Yes."

[Response]

Opposed is "Nay." [Response]

Abstention? [No abstentions]

The question now is on the secondary amendment which is the Schrag amendment. Those in favor of the Schrag amendment, signify by saying, "Yes." [Response]

Opposed is "Nay." [Response]

Abstention? [One abstention]

The Schrag amendment was lost. We are now back to the Love amendment. Mr. Secretary, will you read the Love amendment.

SECRETARY COOPER: The Love amendment would insert on line 73, following the word "days": unless otherwise provided herein. So, the section would read: No law passed by the legislature shall take effect earlier than 90 days unless otherwise provided herein.

DELEGATE JOHNSON: Striking the rest of that article.

SECRETARY COOPER: Striking the rest.

CHAIRMAN BALDWIN: Striking the rest.

DELEGATE CORN: Point of information.

CHAIRMAN BALDWIN: Point of information, Delegate Corn.

DELEGATE CORN: Does the herein refer to this one or the entire constitution?

DELEGATE LOVE: The herein relates to the entire constitution.

DELEGATE CORN: Would you take a friendly amendment by changing herein and making this constitution?

DELEGATE LOVE: In this constitution.

DELEGATE CORN: In this constitution?

DELEGATE LOVE: Yes. Replace the word "herein" with "in this constitution."

CHAIRMAN BALDWIN: Herein has been replaced with in this constitution.

DELEGATE C. MASON: I would like to ask the maker of the motion from what point he would count the 90 days. For instance, this language we have says after it has become a law. There has got to be some point that triggers the 90

days.

DELEGATE LOVE: That will be in the legislative section.

DELEGATE C. MASON: But, in other words, earlier than 90 days, is it 90 days after today, is it 90 days after--

DELEGATE LOVE: Fine. If you want to add "after it has become a law," I agree to that.

DELEGATE KAMENY: You are moving your amendment half a line over.

DELEGATE LOVE: Yes. I'll move my amendment half a line over.

DELEGATE CORN: And read it now. Read it now.

DELEGATE LOVE: No law--shall I read it, Mr. Chair?

CHAIRMAN BALDWIN: Yes, please.

DELEGATE LOVE: No law passed by the legislature shall take effect earlier than 90 days after it has become law unless otherwise provided in this constitution.

CHAIRMAN BALDWIN: Delegate Johnson, do you want to respond?

DELEGATE JOHNSON: Yes. I just wanted to say that this committee also has given a lot of consideration to each and every word, each and every line that you see printed here. Also we served notice to the other committees on

portions of our articles or those proposed that we thought would overlap and where we did need to have some discussion. To this point we haven't had any feedback. So, we made a decision--the committee, that is--made a decision that we would go ahead with the language that you see proposed here. And we do feel very strongly at this point that this language does belong in this article. So, we'll urge the delegates to support it at this time.

CHAIRMAN BALDWIN: Further discussion on the Love amendment? Delegate Corn.

DELEGATE CORN: Point of information that I'd like to ask Delegate Love. If the rest of the language were omitted, does the legislative branch deal with emergency legislation?

DELEGATE LOVE: Yes.

CHAIRMAN BALDWIN: Is there further discussion? Delegate Barnes.

DELEGATE BARNES: Question.

DELEGATE THOMAS: Second.

CHAIRMAN BALDWIN: The question has been called for. Those in favor, signify by saying, "Yes." [Response]

Opposed is "Nay." [Silence]

Abstention? [No abstentions]

Those in favor of the Love amendment, signify by saying, "Yes." [Response]

Opposed is "Nay." [Response]

Division, please. Show of hands on yeses. [Show of hands]

SECRETARY COOPER: Twelve.

CHAIRMAN BALDWIN: Those opposed, show of hands.
[Show of hands]

SECRETARY COOPER: Fourteen.

CHAIRMAN BALDWIN: Abstention?

SECRETARY COOPER: Four.

CHAIRMAN BALDWIN: The count, please.

SECRETARY COOPER: Twelve in favor, 14 not in favor, 4 abstaining.

CHAIRMAN BALDWIN: The motion has lost. We are back to the original motion to adopt section 4(b).

Those in favor of adopting--

DELEGATE LOVE: Mr. Chair.

CHAIRMAN BALDWIN: Delegate Love and Delegate Barnes.

DELEGATE LOVE: I'd like to propose an amendment. The easiest way to explain this amendment is to say it's on page 11 of the legislative committee proposal.

CHAIRMAN BALDWIN: You will not be allowed to propose an amendment that deals with the same subject matter that was defeated. You can make a motion, but it can't deal with lines 72, 73, and 74.

DELEGATE LOVE: No, no, it's not going to.

CHAIRMAN BALDWIN: Okay.

DELEGATE LOVE: What I would do is--

DELEGATE JOHNSON: We don't all have that document, Delegate Love.

DELEGATE LOVE: Okay, then, I'll have to read it. The initial four sentences can stay as is. The next sentence would read: A law declared to be an emergency law-- a law shall be declared to be an emergency law when it has been approved by a majority of all members.

CHAIRMAN BALDWIN: When it has been approved?

DELEGATE LOVE: By a majority of all members of the legislature, after certification by the governor that prompt legislative action, comma, precluding a lapse of time, as described above, is essential.

CHAIRMAN BALDWIN: Is that the end of it?

DELEGATE LOVE: Yes.

DELEGATE GRAHAM: Mr. President, I'd like to get some information from the delegate, please.

CHAIRMAN BALDWIN: Sure.

DELEGATE GRAHAM: Delegate Love, on what page did you say?

CHAIRMAN BALDWIN: Was it seconded, Delegate Love?

DELEGATE NAHIKIAN: Second.

CHAIRMAN BALDWIN: It has been seconded.

DELEGATE LOVE: Page 11.

DELEGATE GRAHAM: What line?

CHAIRMAN BALDWIN: Just one second, Delegate Graham. What Delegate Love submitted in writing, plus that's a substitute rather than an amendment. Delegate Graham.

DELEGATE GRAHAM: I was trying to get the exact information that he said was on page 11 of the legislative report because I have it, and it doesn't have that as he stated it. And I wanted to know what lines was he reading from.

CHAIRMAN BALDWIN: He may submit anything for a substitute motion or amendment. It doesn't have to conform to that.

DELEGATE LOVE: There are two reports. It's in section 16 called Passage of Bills.

DELEGATE GRAHAM: I was just asking because he said it was there.

CHAIRMAN BALDWIN: Right, since he said it, yes.

DELEGATE GRAHAM: Yes, he said it was there. But I couldn't find it.

DELEGATE LOVE: Section 16, Passage of Bills. And you're right, there seem to be two line 14. There appears to be several versions of our report out.

DELEGATE GARNER: Point of order, Mr. Chairman.

PRESIDENT BALDWIN: Yes, point of order.

DELEGATE GARNER: I believe that the intention of the motion has been made. The substance of the motion has been made. And its effects are exactly the same as the motion that Mr. Love just made previously. And on that basis it's a motion to reconsider. I don't believe the people are going to change their votes. And I believe the discussion will be substantially the same as we've just had, and I would urge you to rule that this is a motion to reconsider.

CHAIRMAN BALDWIN: Delegate Simmons.

DELEGATE SIMMONS: I would like to ask for some information from the committee. What is the basis for your 90 days?

DELEGATE GARNER: Point of order, Mr. Chairman. Could you rule?

CHAIRMAN BALDWIN: Yes, I will rule. It is not a motion to reconsider.

DELEGATE GARNER: Thank you.

CHAIRMAN BALDWIN: His motion is in order, a substitute motion.

We need it in writing, Delegate Love.

The chair recognizes Delegate Simmons.

DELEGATE SIMMONS: The question is, Why should legislation not become laws in the District of Columbia as a state in a greater period of time than laws for the United States Congress, which has a much greater geography and more people and greater communication problems where we don't even have to pay long distance to get the message across if we called every single registered citizen?

DELEGATE BRUNING: We considered the 90-day period to be essential as to whether or not we'd have an effective referenda in the District or not because the law will not go into effect for 90 days; we'd have 90 days to file a referendum. Otherwise we'd have a law going into effect--possibly a very unpopular law going into effect--for a period of time. Then you get a law filed on it that stops it. Then if you don't have a provision saying if you took a vote and voted, it stays out of law, that it might go

back into effect again, and then in an election the voters throw the thing out. They've had a law that has been on and off for a period of time, which would make no sense. This is an attempt simply at an orderly process.

CHAIRMAN BALDWIN: Further discussion on the substitute motion?

DELEGATE BRUNING: I would like to hear it.

CHAIRMAN BALDWIN: Mr. Secretary, will you read the substitute motion.

SECRETARY COOPER: The substitute motion would insert on line 56, following the first occurrence of the word "law," the following: It has been approved--

DELEGATE CORN: Seventy-five, you mean.

A DELEGATE: Not line 56.

SECRETARY COOPER: I said 76.

DELEGATE CORN: Seventy-six.

SECRETARY COOPER: That's what I said.

CHAIRMAN BALDWIN: Line 76.

DELEGATE CORN: Where would it start?

SECRETARY COOPER: Page 4, line 76, after the first occurrence of the word "law." And there would be inserted: It has been approved in identical form by a majority of all-- no, that's not correct. It has been approved by a majority

of all members of the legislature after certification by the governor that prompt legislative action, precluding a lapse of time as described above, is essential.

DELEGATE BRUNING: Precluding?

SECRETARY COOPER: Precluding.

CHAIRMAN BALDWIN: You have heard the amendment.

What is your pleasure?

DELEGATE BRUNING: Point of information.

CHAIRMAN BALDWIN: Delegate Bruning.

DELEGATE BRUNING: My point of information is that the amendment reference "precluding a lapse of time as described above"--

DELEGATE LOVE: That's the 90 days.

DELEGATE BRUNING: As described above is 90 days?

DELEGATE LOVE: Yes.

DELEGATE BRUNING: Thank you.

CHAIRMAN BALDWIN: Is there further discussion on the Love amendment? Rothschild.

DELEGATE ROTHSCCHILD: Yes. I would like to ask the maker of the motion why--what's the rationale behind the governor having to make that certification? Why couldn't that come from just the legislature?

CHAIRMAN BALDWIN: You may respond, Delegate Love.

DELEGATE LOVE: We had several people testify in front of our committee to the effect that legislatures are very emergency-law happy. Even if it's two-thirds, they like to pass emergency legislation, as our City Council does. It was our feeling, to make it more difficult for them to pass emergency legislation, that they would also have to have the concurrence of of the governor. It is my belief that this proposal actually makes it more difficult to have emergency legislation, which is, as I understand it, the goal of this committee and to make it easier; although if people on the committee still think it's too easy, they can move to amend my amendment to make it two-thirds rather than a majority, plus the governor. We were very interested in the legislative committee in preventing emergency legislation, and that's why we require the concurrence of two branches of government rather than just the one.

CHAIRMAN BALDWIN: Delegate Corn.

DELEGATE CORN: I move to strike the words "after certification by the governor." To the Love amendment.

CHAIRMAN BALDWIN: She is amending the substitute motion. She may amend the substitute motion.

A DELEGATE: Second.

CHAIRMAN BALDWIN: Would you restate your amendment

to the substitute motion.

DELEGATE CORN: Yes. A law declared to be an emergency law has been approved by a majority of all members of the legislature, precluding--and I'd like to make a second amendment to it. Can I?

CHAIRMAN BALDWIN: No, no, that's out of order.

DELEGATE CORN: Okay. Precluding a lapse of time as described above--

CHAIRMAN BALDWIN: Delegate Corn, the chair has instructed you earlier when you get the floor, you're supposed to have your motion ready.

DELEGATE CORN: Okay. Just eliminate from the Love motion: after certification by the governor.

DELEGATE H. MASON: That's enough. Mr. Chairman, that's all that is seconded.

CHAIRMAN BALDWIN: It appears, Delegate Corn, that you do not have an amendment to that substitute motion.

DELEGATE CORN: I certainly do. I have repeated it three times now.

CHAIRMAN BALDWIN: We need to hear it.

DELEGATE CORN: Delete the words in the Love motion: after certification by the governor.

CHAIRMAN BALDWIN: Is there a second to the

amendment to the substitute motion?

DELEGATE CORN: It was seconded by Delegate Rothschild.

CHAIRMAN BALDWIN: [Rapping gavel] Is there a second to the amended substitute motion?

DELEGATE NAHIKIAN: Second.

CHAIRMAN BALDWIN: Those in favor of the amended substitute motion, signify by saying, "Yes." [Response]

Opposed is "Nay." [Response]

Abstentions? [No abstentions]

The amendment to the substitute motion was lost. We are back to the substitute motion. Delegate Love's motion. Delegate Blount.

DELEGATE BLOUNT: I move the previous question.

SEVERAL DELEGATES: Second.

CHAIRMAN BALDWIN: The previous question has been called for. Those in favor of the previous question, signify by saying, "Yes." [Response]

Opposed is "Nay." [Silence]

Abstentions? [No abstentions]

We shall now vote on the Love motion. Those in favor of the Love motion, signify by saying, "Yes."

[Response]

Opposed is "Nay." [Response]

Abstention? [No abstentions]

The Love motion was lost.

Delegate Johnson, would you state your original motion.

DELEGATE JOHNSON: The original motion was that we adopt section 4(b).

DELEGATE THOMAS: Second.

CHAIRMAN BALDWIN: Those in favor of the adoption--

DELEGATE CORN: Wait, wait. Another amendment, please.

CHAIRMAN BALDWIN: Those in favor of the adoption of section 4(b)--

DELEGATE CORN: Other amendments. Point of order. Please, would you recognize someone for another amendment to this section?

CHAIRMAN BALDWIN: Will you state your amendment, please.

DELEGATE CORN: Line 81, change--a simple majority. Delete the word "two-thirds" and add the words "a simple majority."

CHAIRMAN BALDWIN: Is there a second?

Motion lost for want of a second.

DELEGATE CORN: Delegate Nahikian seconded it.

CHAIRMAN BALDWIN: Motion lost for want of a second, Delegate Corn.

Are there any other amendments to section 4(b)?
Having heard none, those in favor of adopting section 4(b), signify by saying, "Yes." [Response]

Opposed is "Nay." [Response]

DELEGATE CORN: Division.

CHAIRMAN BALDWIN: Division, please. The yes, show of hands. [Show of hands]

SECRETARY COOPER: Twenty-two.

CHAIRMAN BALDWIN: Twenty-two yes.

Nay show of hands. [Show of hands]

Five nay.

Abstention show of hands. [No abstentions]

Section 4(b) has been adopted.

DELEGATE JOHNSON: Fellow delegates, I move the adoption of section 4(c). We are now at line 84, page 5 of 6.

CHAIRMAN BALDWIN: It has been moved and properly seconded that we adopt section 4(c). Discussion? Delegate Kameny, Barnes, and Oulahan.

DELEGATE KAMENY: Mr. Chair, I would like to move an amendment to line 89, to add the language after the word

"institutions": semicolon, or that provides individual rights and protection.

DELEGATE COATES: Second.

DELEGATE CORN: Where is this? Line what?

DELEGATE KAMENY: Line 89.

DELEGATE CORN: Read it again.

A DELEGATE: Read it again, please.

DELEGATE KAMENY: After the word "institutions," the first word on line 89, to add: semicolon, or that provides individual rights or protection.

DELEGATE COATES: Second.

DELEGATE KAMENY: This parallels in intent a section that is also in--a clause in section 6 with respect to initiatives and provides the same sorts of protections for laws and constitutional provisions protecting individual rights.

CHAIRMAN BALDWIN: Mr. Secretary, would you read the amendment so that we understand it.

SECRETARY COOPER: Okay. The amendment would be to line 89, to insert after the word "institutions": semicolon, or that provides individual rights or protections.

CHAIRMAN BALDWIN: Discussion?

DELEGATE CORN: Discussion.

CHAIRMAN BALDWIN: Delegate Corn.

DELEGATE CORN: I understand what Delegate Kameny is trying to get at. He's trying to get at that if the constitution guarantees rights of minorities or rights of-- is that what you're getting at?

DELEGATE KAMENY: No. It's laws such as the equivalent of the D.C.--present D.C. human rights law are enacted. This is the level of law, not the level of the constitution.

DELEGATE CORN: I don't have a problem with his intent. I have a problem with his words because the way this is read, for instance, let's say a law would pass to rent control. A landlord would say that his individual rights were not being protected under this language.

CHAIRMAN BALDWIN: You have stated your opposition. Delegate Oulahan.

DELEGATE OULAHAN: Mr. Chairman, I speak in opposition to the amendment not because I am opposed to the spirit of it, but because I believe that this will create a great deal of mischief. Practically every law that a legislature passes has something in it that has an individual right in it. For example, the right to commence an action at law, the right to be protected from noxious wastes. Most of the

statutes that a legislature will pass will not be subject to referenda because in each one of those statutes someone will be able to find something that creates an individual right. Thank you.

CHAIRMAN BALDWIN: We have two in opposition. Will someone speak for the motion. Delegate Coates.

DELEGATE COATES: I was teasing someone last night saying I'd like to speak for something but didn't have anything to say. But it seems to me, sir, that if we amend the amendment and insert a human rights from this proposal from Delegate Kameny, that the intent is obviously clear.

DELEGATE KAMENY: Instead of individual?

DELEGATE COATES: Yes. And it avoids the problems which Delegate Oulahan raised.

DELEGATE KAMENY: If it is in order, I will accept the amendment.

CHAIRMAN BALDWIN: Mr. Secretary, did you get the amendment he's speaking of?

DELEGATE COATES: I move to strike "individual" in the amendment and insert in lieu thereof "human."

A DELEGATE: Second.

CHAIRMAN BALDWIN: Any discussion regarding the Coates amendment? We are striking "individual" and inserting

the word "human." Discussion.

DELEGATE NAHIKIAN: Mr. Chairman and delegates, I would just like to say briefly that I think that Delegate Coates's amendment clarifies a major problem that Delegate Corn raised as well as the problem that Delegate Oulahan raised. It makes it clear that you're talking about legislation that has to do with human rights and not just general rights under laws and under the constitution. And I think it's a good amendment. I support both the Coates amendment as well as the Kameny amendment.

CHAIRMAN BALDWIN: Delegate Moore. Brian Moore.

DELEGATE B. MOORE: Would the maker of the motion elaborate a little bit further on the original motion, please.

CHAIRMAN BALDWIN: No, no, we only have one motion on the floor. We are discussing that. There is a secondary amendment, which is a Coates amendment, and he only inserted one word, which is "human." That's what we'll discuss until we vote on it.

Delegate Barnes.

DELEGATE BARNES: I move the question on the Coates amendment.

DELEGATE THOMAS: Second.

CHAIRMAN BALDWIN: The question has been moved.
Those in favor, say, "Aye." [Response]

Opposed is "Nay." [Silence]

Abstention? [No abstentions]

We are voting on the secondary amendment, which is the Coates amendment, which is to delete "individual" and insert "human." Those in favor of the Coates amendment, signify by saying, "Aye." [Response]

Opposed is "Nay." [Silence]

Abstention? [One abstention]

One.

The Coates amendment is approved.

We are now back to the Kameny amendment. Mr. Secretary, will you state the Kameny amendment.

DELEGATE JONES: I thought Kameny accepted it.

CHAIRMAN BALDWIN: He accepted that one word, and that one word was lost.

DELEGATE JOHNSON: It passed.

CHAIRMAN BALDWIN: As far as Coates, it passed?

DELEGATE JONES: Yes.

CHAIRMAN BALDWIN: Okay. We need to vote on the Kameny amendment as amended.

DELEGATE KAMENY: I move the question on my

amendment.

A DELEGATE: Second.

CHAIRMAN BALDWIN: Those in favor of the Kameny amendment as amended, signify by saying, "Yes." [Response]

Opposed is "Nay." [Response]

Abstention? [One abstention]

The amendment is carried.

Delegate Barnes.

DELEGATE BARNES: Yes, I have an amendment to section (c).

CHAIRMAN BALDWIN: What line?

DELEGATE BARNES: On line 91. I'll read the original text and then where I'm adding language.

However, an appropriation for a capitol project may be the subject of the referendum, except for capitol projects for public education.

What this does, it says that voters cannot have by referendum--cannot take away a capitol project approved by the legislature for public education. This is the system, what the finance and tax committee has proposed. And those are the reasons why I'm proposing this amendment.

CHAIRMAN BALDWIN: You would like to add to 91-- first, let me check--was there a second to Delegate Barnes'

amendment.

DELEGATE JORDAN: Second. I seconded it.

CHAIRMAN BALDWIN: It was seconded. He's adding at the end of referendum: except for capitol projects for education. Discussion.

DELEGATE BARNES: Public education.

CHAIRMAN BALDWIN: Delegate Nahikian.

DELEGATE NAHIKIAN: Mr. President and delegates, I appreciate the spirit of Delegate Barnes's amendment. But the problem is that I am afraid that if you use the terminology "public education," that it could be construed to mean any one of a number of things and would basically gut the right that the committee is recommending, i.e., that there can be a referendum when there's an appropriation for capitol projects. I'm sure that there was a way of saying that the convention center could have been for public education if it had been so needed to be written that way. So, I would oppose Delegate Barnes's amendment as stated at the present time.

CHAIRMAN BALDWIN: Delegate Jordan.

DELEGATE JORDAN: Yes, Mr. Chair, I rise in support of this amendment. I don't think there's no way that we can stretch the imagination to conclude that the convention

center would be considered an educational institution now.

A DELEGATE: We could hold classes there.

DELEGATE JORDAN: Yes, we could hold classes there, right. But I still don't think it would qualify as an educational--I mean, an institute for public education. And I think this is a goal that will help us in the long run. And I hope that it does not viscerate the intent of the committee. It only makes one exception, and that is for public education. And I hope that everyone here will vote for it.

CHAIRMAN BALDWIN: Delegate Bruning. Delegate Bruning.

DELEGATE BRUNING: Yes. This is for a point of clarification to the maker of the motion, just for the record of the convention. This speaks to facilities that are solely used for public education and essentially not facilities that are used incidentally or occasionally or in a sometimes manner.

DELEGATE BARNES: What if it refers to things like school buildings?

CHAIRMAN BALDWIN: That's okay, Delegate Barnes. He understands. He's reacting to what you said.

DELEGATE BRUNING: Your reaction is yes to that.

DELEGATE BARNES: My reaction is the reaction of the committee, the finance and tax committee; we have the same rationale.

CHAIRMAN BALDWIN: Is there further discussion?
Delegate Corn.

DELEGATE CORN: Could I have it read once more?
And then I'd like to make an amendment to it.

CHAIRMAN BALDWIN: Read it once more.

SECRETARY COOPER: Insertion in section 4(c) on line 91, following "referendum": except for capitol projects for public education.

DELEGATE CORN: For public education?

SECRETARY COOPER: Yes.

DELEGATE CORN: Okay, I'd like to make an amendment to that. Except for capitol projects used primarily for primary and secondary school education.

CHAIRMAN BALDWIN: Will you tell me how that differs from the original one.

DELEGATE CORN: It tightens the definitions very sufficiently.

CHAIRMAN BALDWIN: The question is, Will you tell me the difference between--

DELEGATE CORN: The difference is this way it is

not for a university, a public university, or a graduate school. It's only for primary school, in other words, through high school. It cannot be something like a convention center where they say, "Well, it does have educational purposes." This tightens the definition. That's the primary purpose of it.

CHAIRMAN BALDWIN: Is there a second to Delegate Corn's amendment?

Delegate Corn's amendment lost for want of a second.

Is there further discussion of the Barnes amendment? Delegate Love.

DELEGATE LOVE: Mr. Chair, what we are doing is what I tried to avoid last time. We are into issues which appropriately belong in another section under finance and tax. Finance and tax is trying to change the system. If it's in order, I'd like to move to delete 90 and 91, and we'll take it up under the appropriate time with finance and tax.

A DELEGATE: Second.

CHAIRMAN BALDWIN: It has been moved and properly seconded that we delete lines 90 and 91, and take it up under the proper section in finance and taxation.

DELEGATE LOVE: Where it is all covered.

CHAIRMAN BALDWIN: Discussion. Delegate Thomas.

DELEGATE THOMAS: Mr. Chairman, I would like to speak against Delegate Love's motion because we on two or three different occasions tried to get together with the committee so we could have the correct language--

A DELEGATE: Could you talk louder?

DELEGATE THOMAS: So, for that reason, I would like to speak against it.

CHAIRMAN BALDWIN: Some of the delegates didn't hear you, Delegate Thomas.

DELEGATE THOMAS: I said I would like to speak against it because we made overtures two or three different times to get with the committees to get the correct language, and we never got any feedback from any of them. So, for those grounds I'd like to speak against Delegate Love's proposal.

CHAIRMAN BALDWIN: Delegate Blount.

DELEGATE BLOUNT: I support Delegate Barnes' amendment, and I'm opposed to Delegate Love's amendment. It seems to me that whatever committee has a priority on an issue--for instance, if finance and tax has priority on this issue, then they would have priority for style and drafting. So, in other words, where the two committees come together,

whoever has the priority will take precedence over the other committee, it would seem to me, when it comes to be worked out. So, at this time we still can approve Delegate Barnes' motion and approve the main motion and still work out the form, the priority going to the priority committee.

CHAIRMAN BALDWIN: Those in favor of the Love motion, which is a substitute motion and is deleting lines 90 and 91, signify by saying, "Yes." [Response]

Those opposed is "Nay." [Response]

A division, please. The yes, show of hands.

[Show of hands]

Yes for the deletion of lines 90 and 91.

SECRETARY COOPER: Nine.

CHAIRMAN BALDWIN: Those opposed? [Show of hands]

SECRETARY COOPER: Eighteen.

CHAIRMAN BALDWIN: Abstention? [One abstention]

Back to the Barnes motion. Those in favor of the Barnes motion. Those in favor of the Barnes motion, which reads: at the end of referendum, except for capitol projects for public education.

Those in favor of the Barnes amendment, signify by saying, "Yes." [Response]

Opposed, "Nay." [Response]

SECRETARY COOPER: Division.

CHAIRMAN BALDWIN: Yes, show of hands. [Show of hands]

SECRETARY COOPER: Seventeen.

CHAIRMAN BALDWIN: Noes. [Show of hands]

SECRETARY COOPER: Nine.

CHAIRMAN BALDWIN: Abstention?

SECRETARY COOPER: One.

CHAIRMAN BALDWIN: The Barnes amendment was adopted.

Delegate Love.

DELEGATE LOVE: I'd like to move an amendment. I'd like to move: However--and then change the word "an" to "any," and then say, "appropriation for a capitol project shall be the subject of a referendum."

A DELEGATE: What line is that?

DELEGATE LOVE: Line 90.

CHAIRMAN BALDWIN: Line 90. Is there a second?

DELEGATE CORN: Second.

CHAIRMAN BALDWIN: The intent of the Love motion is a substitute motion. And he's deleting "an" and inserting "any" and "may" and insert "shall." Delegate Hilda Mason.

DELEGATE H. MASON: Can we have the precise wording?

CHAIRMAN BALDWIN: Pardon?

DELEGATE H. MASON: Can we have the wording?

CHAIRMAN BALDWIN: It would then read: However, any appropriation for a capitol project shall be the subject of the referendum, except for capitol projects in the public education.

DELEGATE CORN: For public education.

CHAIRMAN BALDWIN: For public education.

Any further discussion?

DELEGATE CORN: Division.

DELEGATE LOVE: Wait a second. Mr. Chair.

CHAIRMAN BALDWIN: Yes.

DELEGATE LOVE: I'd like to speak in favor of the motion.

CHAIRMAN BALDWIN: Delegate Mason.

DELEGATE C. MASON: I would like to know what the intent of the maker is. A referendum as defined in this article so far is something initiated by the voters, and they may or may not do it. If no voter wants to bring it to a referendum, he doesn't do so. And I therefore think the term "may" is the correct word. Now, if Mr. Love has a different intent with regard to this, I'd like to know exactly what it is. In other words, what is the meaning of the

change in language?

DELEGATE LOVE: May I speak, Mr. Chairman?

CHAIRMAN BALDWIN: Yes. Delegate Love you may speak.

DELEGATE LOVE: I move to delete this because this again is a subject for discussion under finance and tax. It is my feeling that when the government makes capitol expenditures, especially if they involve long-term indebtedness, it should automatically come before the voters; the convention center would be an example. I think this sentence should not be here at all. But if it's going to be here, then I think we are going to need to debate the issues when we have automatic referendums on long-term expenditures. So, I move this to bring us debate since I think this language may preclude a discussion of this at the appropriate time, which is under the finance and tax article.

CHAIRMAN BALDWIN: Delegate Oulahan.

DELEGATE OULAHAN: Mr. Chairman, I speak against the amendment, but I also want to speak against the whole system. What we have in this section of the legislative article is in effect a super legislature. The guts are being cut out of the legislative process. So, we have a hunting license here that is going to allow practically

every piece of legislation to go to the voters within 90 days--I mean, 120 days--after it passed. What you're doing in effect is you're creating some kind of--I don't know what to call it--call it the fourth branch of government--which is completely contrary to the operations of an effective state. And I think you are going to hurt this state government by having all these provisions in it. I therefore am against it.

CHAIRMAN BALDWIN: Delegate Blount.

DELEGATE BLOUNT: I'm also opposed to the amendment. And I will just let it stand on that.

CHAIRMAN BALDWIN: Delegate Barnes.

DELEGATE BARNES: I was just going to say that I think that what we'll get is like the tuition tax credit which is coming out all the time. And there would be no way for the public to mount a campaign against an unpopular referendum.

CHAIRMAN BALDWIN: Delegate Corn.

DELEGATE CORN: I would speak against the entire section (c), I guess, as a result of this last sentence. What you're getting is not only what Delegate Oulahan has outlined, but at the same time and concomitantly you're getting this super strong--

CHAIRMAN BALDWIN: Would you restrict your remarks

to what is on the floor. The entire language is not on the floor.

DELEGATE CORN: Okay, I'm going to speak against this whole section (c) as a result of lines 90 and--

CHAIRMAN BALDWIN: Delegate Garner.

DELEGATE GARNER: Both Rich Bruning and I are members of both the committee on initiative, referendum, and recall and the committee on finance and taxation. If we were voting by ourselves and didn't have to consider 43 other delegates, I believe both for my purpose--and I believe his is--that we would do as 39 other states do. That is, they require referendum on capitol bonds, any capitol projects. That's a requirement of 39 states. We talked about this in finance and taxation. We talked about it in initiative and referendum. And there's all kinds of problems if you have requirements. Special districts can be created. Does every capitol project, no matter how big or how small, have to go to the ballot? In finance and taxation we worked out what I think is an acceptable, reasonable solution. Not every capitol project goes on the ballot. But citizens may petition for it. The convention center is a prime example. Major project, major amount of money. Citizens may petition for a referendum on that.

We also put in an exclusion for public education, primarily focusing on the UDC campus. That's what we were concerned with. Now, these are the considerations that this committee, and the finance and taxation committee came up with. We talked over this for hours and hours, and we fought very strongly on different points. And I believe the proposal, essentially as amended now from this committee and as will come out of finance and taxation, is a good reasonable solution to the problem. And I urge you to vote against the motion to make the requirement now, to adopt the motion as we have it currently in the committee and, when finance and taxation comes before you, to adopt their language.

CHAIRMAN BALDWIN: Those in favor of the--

DELEGATE LOVE: Mr. Chair, can I ask a question?

CHAIRMAN BALDWIN: Yes, please.

DELEGATE LOVE: Did I hear Mr. Garner correctly that this language is not inconsistent with anything in finance and tax?

DELEGATE GARNER: I'm sorry?

DELEGATE LOVE: Did I hear you say correctly that there is nothing in this motion, before my amendment, that is inconsistent with finance and tax?

DELEGATE GARNER: I believe it is virtually the

same language. Is that correct, Mr. Barnes?

DELEGATE BARNES: Yes.

DELEGATE LOVE: I'll withdraw my motion, Mr. Chair.

CHAIRMAN BALDWIN: The motion has been withdrawn.

Those in favor of the adoption of 4(c), signify
by saying, "Yes." [Response]

Opposed is "Nay." [Response]

Abstention? [One abstention]

Section 4(c) is adopted as amended.

DELEGATE JOHNSON: I move the adoption of section
4(d).

CHAIRMAN BALDWIN: Is there a second?

SEVERAL DELEGATES: Second.

CHAIRMAN BALDWIN: It has been moved and properly
seconded that we adopt section 4(d). Discussion. Delegate
Schrag.

DELEGATE SCHRAG: Mr. President, a technical
amendment. After the word "petition" on line 93, add the
words "and verification by the secretary of state that it
complies with all of the requirements of this article."
"And verification by the secretary of state that it complies
with all of the requirements of this article."

MR. TERRELL: Second.

DELEGATE SCHRAG: You'll notice on line 58 we provide for a verification procedure. And the purpose of this article is to ensure that laws aren't stopped simply by somebody going and filing a petition with phony signatures on it or with only two signatures on it, a petition that doesn't possibly comply with the law; but it has got to be a reasonable, responsible petition that the proper officials have certified is at least valid on its face.

CHAIRMAN BALDWIN: That's a technical amendment. Unless the committee has some serious opposition to it, you don't have to respond.

DELEGATE C. MASON: With regard to the Schrag amendment, I am in total agreement with the intent. However, I think the language has to be improved a little. We have 90 days, the same 90 days which the law originally waiting to go into effect has used for circulating petitions. If the petitions are filed on the 90th day, the very last day, the secretary of state may take a month or two weeks or something to verify the signatures. We don't want the law to go into effect for those two months, then he finds that the signatures are not good or good. What I think the intent of Delegate Schrag is that it stays suspended until he has looked at the signatures. If he finds they're no good, then

it goes on into effect. But we've got to provide somehow for that time when he's looking at the signatures because that will be after the 90th day. If Delegate Schrag could revise his motion to include that concept, I think the committee would have no objection to accepting it.

CHAIRMAN BALDWIN: Can you accept the revision, Delegate Schrag?

DELEGATE SCHRAG: Yes. I can accept--I think Delegate Mason is entirely right. So, if the president will allow me to change that amendment to the following. After the word "referendum," at the end of line 94, simply add: unless the secretary of state finds that it does not comply with all of the requirements of this article.

A DELEGATE: Second.

DELEGATE BRUNING: No problem.

DELEGATE JOHNSON: Delegate Mason?

DELEGATE C. MASON: That's acceptable.

CHAIRMAN BALDWIN: The new amendment reads as follows. Mr. Secretary.

SECRETARY COOPER: The amendment would be to add on line 93, after the word "petition"--

CHAIRMAN BALDWIN: No, no, 94. It's a new amendment now. Unless.

SECRETARY COOPER: How about the old amendment?

CHAIRMAN BALDWIN: They withdrew that one.

SECRETARY COOPER: He didn't withdraw it. He was adding more language.

Could you clarify that? Were you adding more language?

DELEGATE SCHRAG: After I took Delegate Mason's suggestions, we changed the proposed amendment to read: after the word "referendum" on line 94, unless the secretary of state finds that it does not comply with all of the requirements of this article.

CHAIRMAN BALDWIN: Is there further discussion of the Schrag amendment? Delegate Moore.

DELEGATE B. MOORE: Yes. I have a question of the maker of the motion. Why couldn't you have inserted the word "a certified referendum" as opposed to qualifying it with six or seven words at the end?

DELEGATE SCHRAG: That wouldn't solve the problem, Delegate Moore, because we don't have a certification procedure written into the document so far.

DELEGATE B. MOORE: Will we later on down the line?

CHAIRMAN BALDWIN: Delegate Mason, supposedly speaking for the committee, had accepted it. Now, is the

committee satisfied with the new amendment? Or, better said, do you have any opposition, any other committee member?

Delegate Jones.

DELEGATE JONES: Yes. The legislature who will be putting together whatever our board of elections--certainly will be taking that up. Why would we put all this in the constitution, Delegate Schrag?

DELEGATE SCHRAG: Because if we don't have this clause in here, the legislature will not be able to adopt this exception. A law putting in this exception would be unconstitutional because it would be inconsistent with the requirements of the section if we leave this out.

DELEGATE JONES: But there will be regulations that will say what standard the referendum petition must meet.

DELEGATE SCHRAG: You're correct, Delegate Jones, but those regulations cannot be inconsistent with the language of the constitution. And the language of the constitution, if we leave this out, would say that the filing of a referendum petition all by itself suspends the operation of the law.

DELEGATE JONES: I still have some problems. Can I ask him one more question?

CHAIRMAN BALDWIN: Yes.

DELEGATE JONES: I still have some problems because as long as the regulation is not more restrictive than the constitution, it seems to me that the standard for a referendum petition would be what would be a problem for the legislature and regulations for whatever our board of elections will be. So, I'm still having some problems why we get so wordy.

DELEGATE SCHRAG: I'm sorry if I haven't been able to make myself clear, Delegate Jones. It's simply that without a caveat on the end of this or a specific sentence allowing the legislature to make regulations having to do with certification or something like that, we run the problem that a regulation of the type that you propose could well be held inconsistent with the language--with the unqualified language--of this section.

CHAIRMAN BALDWIN: Delegate Bruning.

DELEGATE BRUNING: I move the previous question.

DELEGATE THOMAS: Second.

CHAIRMAN BALDWIN: The previous question has been asked. Those in favor of the previous question, signify by saying, "Yes." [Response]

Opposed is "Nay." [Silence]

Abstention? [No abstentions]

Mr. Secretary, will you read the question, the amendment.

SECRETARY COOPER: The amendment would be to insert on line 94, following the word "referendum," the following: unless the secretary of state finds that it does not comply with all of the requirements of this article.

CHAIRMAN BALDWIN: Those in favor, signify by saying, "Yes." [Response]

Opposed is "Nay." [Silence]

Abstention? [One abstention]

Motion carried.

Delegate Johnson, we should be back to the original motion as amended, which would be the adoption of 4(d) as amended.

DELEGATE JOHNSON: I call for the question.

DELEGATE THOMAS: Second.

CHAIRMAN BALDWIN: Those in favor of adopting section 4(d) as amended, signify by saying, "Yes." [Response]

Opposed is "Nay." [Response]

Abstention? [One abstention]

4(d) has been adopted.

4(e).

DELEGATE JOHNSON: I move the adoption of section

4(e).

A DELEGATE: Second.

CHAIRMAN BALDWIN: It has been moved and properly seconded that we adopt 4(e). Discussion. Discussion.

Those in favor of adopting 4(e), signify by saying, "Yes." [Response]

Opposed is "Nay." [Response]

Abstention? [No abstentions]

4(e) has been adopted.

4(f).

DELEGATE JOHNSON: I move the adoption of section 4(f).

DELEGATE THOMAS: Second.

CHAIRMAN BALDWIN: It has been moved and properly seconded that we adopt section 4(f). Discussion. Delegate Schrag.

DELEGATE SCRAG: Mr. President, I move to amend section 4(f) by adding the words "or repeal" after the word "amend" on line 102. So, it would read; The legislature may amend or repeal an initiative statute and so forth.

DELEGATE TERRELL: Second.

DELEGATE SCHRAG: The purpose of this amendment is to render consistent the two provisions, amendment and

repeal. They really have to be consistent because a legislature can effectively repeal a statute by amending it to death or by amending it to add that it shall become effective in the year 2100 or any of a thousand amendments. They could effectively repeal it. And it makes more sense to have a uniform provision stating the procedure for both amendment and for repeal rather than to have two different procedures, one for amendment and one for repeal.

There is one further reason for this, and that is that we just provided an emergency provision in section (b); if we don't provide any way for the legislature during the first two years to repeal the law in an emergency--let's say something happens in the real world, a flood or something, and there is a need to repeal a law that has been passed by initiative. If we don't provide some way that the legislature can repeal that law and a repeal is needed--and only the people can repeal it in an action a year from now--we're stuck with legislation on the books that there's no way ever to get rid of for a year. And so there should be a uniform procedure for both amendment and repeal and some way, some extraordinary way such as this three-quarters method which is pretty strict, for the legislature to get rid of a bad law, if it's really necessary to do so.

CHAIRMAN BALDWIN: Delegate Graham.

DELEGATE GRAHAM: Mr. President and members of this delegation, we discussed that fully and we feel that initiative belongs to the people, and that to say that the legislators can come back and repeal an initiative would be ridiculous, I think. It would be only the people--and if you look at lines 105 and 106, we have that saving in there. And I don't think we should ever give the legislators that kind of advantage over the people. And that's why it has been this way. And I hope you will support what we have here before you.

CHAIRMAN BALDWIN: Delegate Corn.

DELEGATE CORN: I would ask the maker of this motion a question, and then I would like to comment. May I do that?

CHAIRMAN BALDWIN: Yes, you may.

DELEGATE CORN: Delegate Schrag, if you put in the word "or repeal" in line 102, in essence then the electorate, after having made this initiative and gone through this entire lengthy and difficult process and having won their right, could then have it very easily taken away if three-quarters of the legislature decided to do that, is that not correct?

DELEGATE SCHRAG: Yes, but that's true even under-

DELEGATE CORN: Just yes or no.

DELEGATE SCHRAG; That's true even under the committee's language, Delegate Corn, because the legislature could amend the statute by putting in the word "not" or by putting in the words "this law shall be effective in the year 2100," or by any other kind of amendment that gutted the statute.

DELEGATE CORN: I would speak against this amendment, and I will tell you why. Supposing the legislature, for instance, passed themselves a 20 percent pay increase and a \$50,000 tax deduction as expenses for their homes, their telephones, their newspapers, et cetera, et cetera, et cetera. And the people felt that this was a wrong thing to do. So, they put forth an initiative, and the initiative passed. Now, if they were to try to amend it, it would receive a tremendous amount of lobbying from the constituents and a tremendous amount of flurry in the newspapers. Whereas, if they repeal it, while it might receive that same thing, especially if it's not done on a voice vote and it's done all in favor, is their consensus, then nobody can point their finger and say, "My legislator did this, and I'm going to make damn well sure I vote him out the next time."

So, I would vote against this amendment and urge the rest of you to vote against it too.

CHAIRMAN BALDWIN: Delegate Talmadge Moore, did I see your hand?

DELEGATE T. MOORE: I wanted to ask the maker of this motion a question, and I think Delegate Corn answered my question.

CHAIRMAN BALDWIN: Okay, thank you. Delegate Oulahan. Then we'll hear from the committee.

DELEGATE OULAHAN: Mr. Chairman, I want to speak in favor of the motion, and I'll speak in favor of it because of the general theory that I stated tonight, that this section, plus the other section, create a fourth branch of government and weaken the legislature beyond much more than I think it should be. At least under subsection (f) there is an ability for the legislature to recoup the situation. And I was very interested in the remark by my good friend Delegate Graham saying that the legislators should never have the advantage over the people. My answer to that is: Why elect a legislature if you don't trust the legislators in that body? And this shows a complete distrust of our legislature. I'm going to vote against this article for that reason.

CHAIRMAN BALDWIN: Delegate Garner, Delegate Jones, and then we're going to vote.

DELEGATE GARNER: Delegate Oulahan is against referendum. He supports this motion because he's against referendum. And if you're against referendum, I urge you to support the Schrag amendment. Delegate Schrag would have us believe that we do not have access to the courts, that somehow the legislature can willy-nilly put "not" in front of verbs and that there's no access to the court which would say that in fact this repeal and the legislature cannot do that. The committee has considered this language. It has looked at other state constitutions. We believe this is an appropriate way, once the people have spoken through referendum or through initiative, that the legislature cannot overturn that willy-nilly. They can, by three-quarters vote, put the issue back on the ballot if the people want to change their minds. We give them that option in the case of emergency. But we do protect the right of the people, once they have voted on an issue, to have that position maintained against the legislature. That's exactly what initiative and referendum is, and it should stay that way.

CHAIRMAN BALDWIN: Delegate Graham. Sorry, Delegate Jones.

DELEGATE JONES: That's all right. I can associate my remarks with Delegate Joel Garner.

CHAIRMAN BALDWIN: Thank you.

DELEGATE JONES: I call for the question, Mr. Chair

DELEGATE THOMAS: Second.

CHAIRMAN BALDWIN: The question has been called for Those in favor signify by saying "Yes." [Response]

Opposed is "Nay." [Response]

Abstention? [No abstention]

We will now vote on the amendment inserting the word "or appeal" in line 102 after "amend."

SEVERAL DELEGATES: Or repeal.

CHAIRMAN BALDWIN: Or repeal. Those in favor of the amendment, signify by saying, "Yes." [Response]

Those opposed, "Nay." [Response]

Will the yes raise your hands. [Show of hands]

SECRETARY COOPER: Twelve.

CHAIRMAN BALDWIN: Nays, raise your hand. [Show of hands]

DELEGATE JONES: . You all have no faith in the people.

SECRETARY COOPER: Nine.

CHAIRMAN BALDWIN: Abstention?

SECRETARY COOPER: Three.

CHAIRMAN BALDWIN: Motion carried.

DELEGATE LOVE: Mr. Chair.

CHAIRMAN BALDWIN: Yes.

DELEGATE LOVE: Point of information. All we have done at this point is we have added the words "may amend or repeal," right?

CHAIRMAN BALDWIN: Yes.

DELEGATE LOVE: The second sentence remains: Repeal of an initiative by another statute--which is the only way they could ever repeal anything--shall become effective only when approved by the electors. So, it appears to me that, unless I've missed something along the line here, the legislature cannot repeal this. Am I wrong?

Can I ask somebody on the committee? I mean, the way I understand this is that the legislature--as it presently is worded, if the legislature wants to repeal an initiative, they will have to put before the voters that repeal in another referendum. Is that correct?

CHAIRMAN BALDWIN: Delegate Jones.

DELEGATE JONES: Mr. Chairman, I have to rise on a point of order at this point. And, as I stated last night, being ever cognizant of the fact that we don't have money to

pay for this building, we must adjourn at 9:30 because we are to be out the door at 10:00--not adjourning at 10:00, but out the door. And it takes us about 20 minutes to get packed up to leave the hall. Thank you.

CHAIRMAN BALDWIN: Thank you.

DELEGATE JONES: Excuse me, I will rise on another point of order at 9:30 to ask you to please get a motion for adjournment.

CHAIRMAN BALDWIN: Delegate Schrag.

DELEGATE KAMENY: What happens if we're still here at 10:01?

DELEGATE JONES: I must answer Delegate Kameny because if we are here after 10:00 o'clock, we will take your stipend and pay for the hall. [Delegates laugh.]

CHAIRMAN BALDWIN: Delegate Schrag.

DELEGATE SCHRAG: Mr. President, Delegate Love is quite right, this thing has to proceed in stages. Now that we've put repeal in the first sentence, we should do something about the second sentence. I therefore move to substitute for the second sentence the following: An initiative may be amended or repealed by a new initiative at any time.

An initiative may be amended or repealed by a new initiative at any time.

DELEGATE KAMENY: Second.

DELEGATE SCHRAG: The purpose of this is sentence one now would deal with what the legislature can do in terms of amending and repealing an initiative. And sentence two would preserve to the people their right, the people's right, to do just what the legislature can do to amend or repeal.

CHAIRMAN BALDWIN: If the legislature repealed the statute, then the electors can come around and then repeal what they did, undo what they did.

DELEGATE SCHRAG: The people reign supreme.

CHAIRMAN BALDWIN: That's the intent of your motion.

DELEGATE SCHRAG: The people reign supreme. They would be able to amend or repeal the statute themselves.

CHAIRMAN BALDWIN: Delegate Cooper.

Just a second, did we get a second for that?

A DELEGATE: Yes.

CHAIRMAN BALDWIN: Delegate Cooper.

SECRETARY COOPER: I understand Delegate Schrag is trying to create some balance here, but I don't think there is any balance. I don't think the people can reign supreme. If the legislature decides to repeal an initiative, they can do that sitting in one session. They could take a five-

minute vote whereby the people would have to go through that 180-day process all over again to get another initiative on the ballot. This can be a frustrating, an elongated process. And it gives that power to the legislature and it takes the power away from the people, which should have remained in this article.

CHAIRMAN BALDWIN: Let's hear from Delegate Mason. Can't you assist us or shed some light on this dilemma?

DELEGATE H. MASON: I would just like to ask Delegate Schrag a question. If the people initiated a movement to repeal, would that keep the law in effect even though the legislature had voted to repeal it?

DELEGATE SCHRAG: No, it would not. If the legislature repealed the statute under sentence one, it would be repealed, and then the people could put it back by an initiative. But this sentence is not primarily directed to the case where the legislature and the people are in conflict, which Delegate Cooper raised. This sentence is primarily directed to a different case where an initiative has been passed; it's not working out very well, but the legislature doesn't amend or repeal it. The legislature takes no action. And then the people would have the right to amend that to make it work right. In other words, it's just a

parallel route to the same thing. It's not directed to primarily Delegate Cooper's situation where the people and the legislature are fighting each other. I think it's necessary to do something here, either what I'm proposing or something else, because at the present time, the first two sentences--what we've just done, which is to permit the legislature to repeal a statute with a three-quarters vote, is inconsistent with the second sentence, which requires a referendum on that, which is not allowing the legislature to do it. So, we have to do something. We can either delete the second sentence, or I think it would be more appropriate to replace it with a sentence that guaranteed the people the right to amend an initiative themselves.

CHAIRMAN BALDWIN: Delegate Mason, does that answer your question?

DELEGATE H. MASON: May I pursue one step further? If the people and the legislature are in conflict, the legislature repeals an act and the people like the act, can they then have an initiative? And, on top of that, will the initiative stop the repealing action?

DELEGATE SCHRAG: Yes, that could be done, but not through the initiative procedure. That would be done in the referendum procedure, in a referendum of the repealer law.

So, the people would have the right by filing a referendum to stop that repeal.

DELEGATE H. MASON: Okay, so, the people would still have power at the end.

DELEGATE SCHRAG: The people always have power in the end.

CHAIRMAN BALDWIN: We see about three hands from the committee. Can one of you kind of serve as a spokesperson so we can move. We'd like to leave here at 9:30. We know you're in opposition of it.

DELEGATE GARNER: I'd like to move a substitute which I believe will be agreeable to Delegate Schrag. I believe Delegate Bruning has the language. The substitute--and maybe Mr. Schrag can give us the language--is in effect to say the legislature may repeal an initiative, but any repeal is not merely subject to referendum, but automatically goes to referendum. Thereby his concern with the people and the legislature are in accord. In an emergency situation the legislature can in fact repeal. But you don't have to go through the full petition period again. It automatically goes to referendum.

DELEGATE CORN: Could you give it to us again?

DELEGATE GARNER: Okay. I don't have the specific

language.

DELEGATE BRUNING: I'll try language, and we can go on from there. Any repeal by the legislature of an initiative statute during its first two-year period shall be automatically subject to referendum.

DELEGATE SCHRAG: I accept that.

DELEGATE CORN: Would you read it once more nice and slow.

CHAIRMAN BALDWIN: No. All it says is any repeal by the legislature would be automatically subject to referendum. That's all it is.

DELEGATE SCHRAG: Within the two-year period.

CHAIRMAN BALDWIN: Naturally during the two-year period.

Any further discussion on that amendment? Delegate Love.

DELEGATE LOVE: Mr. Chair, when I brought up trying to have something else automatically be subject to referendum, I was told that under the definition of referendum, that was impossible. And therefore I want to know on some legal basis if you can automatically subject something to referendum since I was told, when I tried to do that, that I couldn't. So, now we are being told that we could.

CHAIRMAN BALDWIN: Only if you can answer his question.

DELEGATE GARNER: You were told that that's not normally the way a referendum is referred to. But it is true, and it is current under D.C. law presently that the legislature may put issues on the ballot for referendum. That's what this provides, an automatic provision of the statute on the ballot by referendum.

CHAIRMAN BALDWIN: Delegate Mason, can you add to that?

DELEGATE C. MASON: I would suggest a slight change in language automatically placed on the ballot for approval of this group.

DELEGATE SCHRAG: Within the first two years.

DELEGATE C. MASON: Yes. Within the first two years is still there just as before. The only change is instead of the word "referendum," say: placed on the ballot for approval or disapproval. We simply delete the word "referendum and use the term: placed on the ballot for approval or disapproval.

DELEGATE CORN: By the voters?

DELEGATE C. MASON: By the voters.

CHAIRMAN BALDWIN: Was that a motion, Delegate

Mason, and was there a second?

DELEGATE C. MASON: I so move.

DELEGATE CORN: Second.

CHAIRMAN BALDWIN: We are now voting on the secondary amendment, which is the Mason amendment. The secretary doesn't have it, and I can understand why.

DELEGATE CORN: I have it.

CHAIRMAN BALDWIN: No, we don't want it from you, Delegate Corn.

Delegate Mason.

DELEGATE C. MASON: Yes?

CHAIRMAN BALDWIN: Would you give us the motion.

DELEGATE C. MASON: My amendment simply deletes the word "referendum" and substitutes "shall be placed on the ballot for approval or disapproval by the voters"-- automatically placed on the ballot for approval...

CHAIRMAN BALDWIN: Okay, the secretary says he has it.

DELEGATE CORN: Shall be automatically placed on the ballot for approval or disapproval by the voters.

DELEGATE C. MASON: That's correct.

[Pause for officers to confer]

CHAIRMAN BALDWIN: There's only two amendments now

on the floor. One is called--the last one would be called a secondary amendment which we must vote on first. And that's the Mason amendment.

Will you accept it? Then you don't even have to vote on it?

DELEGATE SCHRAG: I'll accept it.

DELEGATE LOVE: Mr. Chair, could I have a point of information?

CHAIRMAN BALDWIN: Yes. We're trying to determine what motion is on the floor so we can vote. So, therefore, Delegate Mason has withdrawn his. So, now, we're left with the original amendment, the Schrag amendment.

DELEGATE SCHRAG: Yes, I've accepted Delegate Mason's language for it.

A DELEGATE: Please read it.

DELEGATE SCHRAG: It would be as follows. Substitute for the entire second sentence, which begins on line 104 substitute the following: Any repeal of an initiative--any repeal of an initiative by the legislature within the first two years shall be automatically placed on the ballot for approval or disapproval by the voters.

CHAIRMAN BALDWIN: Discussion.

A DELEGATE: Shall be automatically...

DELEGATE SCHRAG: Placed on the ballot for approval or disapproval by the voters.

CHAIRMAN BALDWIN: Delegate Love.

DELEGATE LOVE: Mr. Chair, I just have a question. Does this mean that the act would be repealed and then put on the ballot? Or does it mean that the act would be put on the ballot and then repealed?

DELEGATE SCHRAG: It would be repealed and then put on the ballot. And the reason for that, Delegate Love, is that there has to be some way, as I stated before, if changed conditions bring about some need for emergency legislation; with a three-quarters requirement, a very strict requirement, there has to be some way of doing things fast. You can't create some way in the state in which the state is mindlessly out of control, where there's a law passed that nobody can get rid of quickly. So, in this case the law would be repealed, but it would then go on the ballot for the voters to approve or disapprove the repeal.

DELEGATE LOVE: I have another question, Mr. Chair.

DELEGATE JONES: Mr. Chairman.

CHAIRMAN BALDWIN: Yes.

DELEGATE JONES: There's one problem. There's one problem. The initiative is usually used when the legislators

won't get off their duffs and do their job. Now, if the voters go to the initiative for something that is hurting them at the present and the cycle of this process is longer than what the voters need done at the present, then the voter is hurt. And I would like to know what the remedy would be for that because it takes more for the voters; even if the appeal is automatically put on the ballot, somebody has to educate the voters. The legislature that does not want it certainly is not going to do that.

Now, my question is, What happens to the voter and what is the remedy for this?

DELEGATE SCHRAG: I think we have to keep in mind, Delegate Jones, two important considerations. One is that we have a three-quarters requirement in this section for any repeal. And the second is that the fundamental remedy against a legislature doing something against the will of the people--the fundamental remedy is to vote them out of office. Here we have two remedies: vote them out of office and restore the law by the initiative process, by the voting process. So, there are two different ways that the voters can have their way in the end.

CHAIRMAN BALDWIN: Delegate Love.

DELEGATE LOVE: Yes, I had a second question.

CHAIRMAN BALDWIN: I'm sorry.

DELEGATE JONES: I still have the problem because the question is not being answered. I'd like to know what the remedy is. You know, what is the right of appeal other than voting the legislator out of office? The damage has been done at that point.

DELEGATE SCHIRAG: The other remedy, Delegate Jones, is to put the law back on election day under this section.

CHAIRMAN BALDWIN: I don't think your question can be answered. All of us can tell you what we think, Delegate Jones. So, we shall proceed. Either speak for or against the motion. Delegate Love, Delegate Corn.

DELEGATE LOVE: Mr. Chair, again this is a question about the impact of this. Does this mean that the legislature could--if the law is only in effect for two years, given that elections don't happen very often, it appears to me the legislature could veto this law, and the two-year time is running. And by the time--we'd never have the law basically. This would allow the legislature to guarantee that we'd never have the law because even if it came up for a vote, it would come up for a vote at the end of the two-year section, and they would be able to take care of it automatically. Is that what would happen?

CHAIRMAN BALDWIN: Delegate Mason, did you want to respond?

DELEGATE C. MASON: Yes. I would want to clarify one thing Delegate Schrag just said, I think, or at least state my understanding of the situation. That is that the repealer law is like any other law except it requires a special majority. The repealer law would not go into effect for 90 days unless it was declared an emergency, which of course the legislature could declare. But assuming the legislature didn't, then it would stay--in other words, it would stay in effect until the vote was taken.

However, the legislature perfectly easily could declare it an emergency, so it would go into effect right away. Then when the automatic placement on the ballot came, then the voters could restore it. But I don't think it would go into effect immediately in the absence of an emergency declaration.

DELEGATE SCHRAG: I accept that interpretation.

CHAIRMAN BALDWIN: Delegate Jones.

DELEGATE JONES: Mr. Chairman, this town has been hurt several times by urban renewal. Southwest is a prime example of it. You know, my family got hurt terrible. I mean, it was ridiculous. When the city came by and said,

"I want your house" and they took it, they said, "You can come back." You know, we can't live in Waterside Mall. There is no way my family can live in Waterside Mall.

My problem here is this. If the citizens say, "You will not urban renew this area in this manner" or "You will not urban renew it at all," the legislature can repeal it. And contracting stuff has been let and certain things are going to happen, and they're going to put up a highrise in my area at a time certain. My house is gone. The highrise is there. And I cannot pay \$1200 a month rent. And then the legislature puts it on the ballot two years later? I'm hurt.

My question to Delegate Schrag is that his language allows that to happen to me. And I happen to also live in an area that's poor and not powerful. Now, I need to know-- I need to know what the remedy is for this.

DELEGATE CORN: There isn't any.

DELEGATE JONES: Gloria, are you saying they have the right to do that to us?

DELEGATE CORN: If you vote up his amendment, yes.

DELEGATE JONES: I don't intend to vote up his amendment.

CHAIRMAN BALDWIN: Delegate Schrag cannot answer

that. Delegate Love.

DELEGATE LOVE: Is an amendment in order to Mr. Schrag's amendment?

DELEGATE CORN: Point of order, Mr. President.

CHAIRMAN BALDWIN: Yes, an amendment is in order.

DELEGATE CORN: I was supposed to have been recognized next.

DELEGATE LOVE: I would like to make an amendment to Mr. Schrag's amendment to read as follows: Any repeal of an initiative by the legislature within the first two years shall--and at this point I would say--become effective only when subsequently approved by the voters.

A DELEGATE: Second.

CHAIRMAN BALDWIN: Discussion? Delegate Schrag.

DELEGATE SCHRAG: Mr. Chair, I first make a point of order against this amendment on the ground that it is a reconsideration of the first sentence of the Schrag amendment "or repeal" that we just voted which allows the legislature to repeal a statute as an amendment to the section to stop them from--

CHAIRMAN BALDWIN: Delegate Love, that point is well taken.

DELEGATE LOVE: I'm sorry. This allows them to

repeal it. It just says that the repeal will not be enacted until the voters have also voted on it.

CHAIRMAN BALDWIN: The chair has ruled that is a reconsideration. Delegate Barnes.

DELEGATE BARNES: I just have a comment to make. I counted 23 people in the room, delegates in the room.

CHAIRMAN BALDWIN: What?

DELEGATE BARNES: I counted 23 delegates in the hall as of now.

CHAIRMAN BALDWIN: Yes. We only have two more minutes till we adjourn.

DELEGATE BARNES: No, I just said--

CHAIRMAN BALDWIN: No, I understand. But I'm also saying--Delegate Garner.

DELEGATE GARNER: I call the question.

A DELEGATE: Second.

CHAIRMAN BALDWIN: The previous question has been called. Those in favor, say, "Aye." [Response]

Opposed is "Nay." [Response]

Abstentions? [No abstentions]

The ayes have it.

So, the question is, Mr. Secretary.

SECRETARY COOPER: For the second sentence: Any

repeal of an initiative by the legislature within the first two years shall be automatically subject to a referendum.

CHAIRMAN BALDWIN: Those in favor of the amendment, signify by saying, "Yes." [Response]

Opposed is "Nay." [Response]

Division.

Those signify by a show of hands for yes. [Show of hands]

SECRETARY COOPER: Seven.

CHAIRMAN BALDWIN: The nays.

SECRETARY COOPER: Fourteen.

CHAIRMAN BALDWIN: Abstention? Abstention? [No abstentions]

The motion is lost, and we must adjourn.

SECRETARY COOPER: Are we going to vote--

CHAIRMAN BALDWIN: The main motion, yes. Let's clear that up.

Yes, Delegate Schrag.

DELEGATE SCHRAG: Mr. President, a point of inquiry on the main motion. We have two sentences in this section that are inconsistent with each other at this point.

CHAIRMAN BALDWIN: What line are you on?

DELEGATE SCHRAG: Line 102. It says that the

legislature may repeal an initiative with a three-quarters vote. But line 105 now says that they may not repeal an initiative because it has to be approved by the electors. So, we have two inconsistent sentences, and it seems to me we have to do something with them.

DELEGATE CORN: Point of order. Point of order.

CHAIRMAN BALDWIN: [Rapping gavel] Yes, Delegate Corn.

DELEGATE CORN: They are not at all inconsistent.

CHAIRMAN BALDWIN: State your point of order.

DELEGATE CORN: They are not inconsistent.

CHAIRMAN BALDWIN: A point of order means a rule is being violated. State your point of order.

Delegate Love.

DELEGATE LOVE: I'd like to move section (f).

SEVERAL DELEGATES: Second.

DELEGATE SCHRAG: My inquiry is on the floor, Mr. President, which is, Is there a way to get out of--to avoid passing two inconsistent sections?

CHAIRMAN BALDWIN: No. I think the delegates have a right to do what they have done as long as they know what they have done.

Delegate Mason.

DELEGATE C. MASON: I would point out that under present law in the District of Columbia the Council has power to enact a law which repeals an existing law. But it doesn't go into effect until certain other things happen; namely, sitting 30 legislative days in the Congress. Here we are simply giving similar power to voters. In other words, we are saying that an act of the legislature doesn't go into effect until it goes before the voters.

CHAIRMAN BALDWIN: So, that's your answer to Delegate Schrag.

SECRETARY COOPER: Mr. President, I move the previous question.

CHAIRMAN BALDWIN: The previous question has been moved.

A DELEGATE: Second.

CHAIRMAN BALDWIN: Those in favor, say, "Aye."

[Response]

Opposed is "Nay." [Response]

Division, please. All in favor--

SECRETARY COOPER: That was on cutting off the question.

CHAIRMAN BALDWIN: I know, but we need to see did it pass. This is the previous question. Those in favor of

the previous question, show of hands.

DELEGATE JOHNSON: Point of inquiry, Mr. President, point of inquiry.

DELEGATE CORN: Section (f).

CHAIRMAN BALDWIN: We are voting on the previous question. The chair will not recognize any hands.

DELEGATE KAMENY: You are voting to cut off debate.

DELEGATE LOVE: On section (f).

CHAIRMAN BALDWIN: Naturally it's on section (f). That's what we're talking about.

DELEGATE JOHNSON: Point of inquiry.

CHAIRMAN BALDWIN: There's no point of inquiry. We are voting on whether to cut off debate, whether to stop talking, stop debating. Show of hands, those in favor.
[Show of hands]

SECRETARY COOPER: Seventeen.

CHAIRMAN BALDWIN: Those opposed. [Show of hands]

SECRETARY COOPER: Six.

CHAIRMAN BALDWIN: Debate has been cut off, and the only thing left is to vote, no point of inquiry, no point of order. We can only vote.

Those in favor of the adoption of 4(f), signify by saying, "Yes." [Response]

Those opposed, "Nay." [Response]

Division. Show of hands. Yes. [Show of hands]

SECRETARY COOPER: Fifteen.

CHAIRMAN BALDWIN: No. [Show of hands]

SECRETARY COOPER: Eight.

CHAIRMAN BALDWIN: The vote was 15 to 8.

Abstention? [One abstention]

Fifteen, eight, one.

Section 4(f) has been adopted. And we are now
adjourned.

[The session was adjourned at 9:31 p.m.]

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